

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **July 20, 2004**

RE: **Analysis Report**

Balances As Of:	<u>7/15/04</u>	<u>7/9/03</u>
<u>GSD 4% RESERVE FUND</u>	\$37,452,900	\$15,382,316
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND</u>		
	Unavailable	Unavailable

– RESOLUTIONS –

RESOLUTION NOS. RS2004-328, RS2004-329 & RS2004-330 (GILMORE) – These three resolutions provide for the mayor's 2004-2005 spending plan for various capital projects, construction of new facilities, renovation and repair of existing facilities, and acquisition of equipment. A separate analysis has been prepared and is attached at the end of this analysis report.

RESOLUTION NO. RS2004-347 (WALLACE, TYGARD & OTHERS) – This resolution appropriates \$75,000 from the unappropriated fund balance of the general services district to fund a best practices study. This appropriation would provide funds to employ necessary consultants to conduct a Best Practices Study of the council office. Such study would include a study of the current council office, current staffing of the council office, and the need for additional staffing.

Rule 15 of the Council Rules of Procedure provides that "no resolution or ordinance involving the appropriation or expenditure of money, upon being filed, shall be placed on the agenda by the Metropolitan Clerk until the Director of Finance has furnished a statement of the availability of funds." The director of finance has provided a statement that the funds are not available for this appropriation. The Council has established a policy of maintaining a minimum unappropriated fund balance of five percent. As the unappropriated fund balance is currently below this five percent threshold, appropriating these funds for this purpose would violate the longstanding policy set by the council. The proposed operating budget for 2004-2005, on public hearing and second reading, estimates a five percent balance as required by the council policy.

The substitute budget adopted by the council for this fiscal year did not fund this study.

RESOLUTION NOS. RS2004-361 THRU RS2004-372 (GILMORE) – These twelve resolutions appropriate funds from the general fund reserve fund (4% fund) to various departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings.

The total amount of these twelve resolutions is \$36,452,900. The balance in the general fund reserve fund as of June 9, 2004, was \$37,452,900. Although funds are available, in the past a fund balance in excess of \$1 million has been a minimum balance. The resolutions do provide that "(t)he Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the fund." Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to the supplemental analysis report that provides information on the "mayor's capital spending plan".

RESOLUTION NO. RS2004-394 (WALLACE) – This resolution provides an amendment to the Metropolitan Charter to clarify that the office of mayor is subject to term limits of two terms.

The Council, pursuant to the Charter, may only adopt two resolutions during the term of the council that submit amendments to the voters for ratification. This amendment to the Charter must be adopted by 27 affirmative votes of the Council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective. This resolution provides that the date for holding the resolution is the November 2004 presidential election. State law requires that the election be held within 45-60 days after the Council adopts the resolution submitting amendments to the voters for ratification. Thus, this resolution should be deferred in order to avoid the calling of a special election.

RESOLUTION NO. RS2004-395 (GILMORE) – This resolution accepts a grant from the state commission on children and youth to improve juvenile court services. The amount of this grant is \$9,000. The grant does not require any local matching payment. The term is for one year beginning July 1, 2004, and expiring June 30, 2005. The grant funds will be used to provide services related to alternative placement and alternatives to detention for children, children’s center intervention, and other similar services.

RESOLUTION NO. RS2004-396 (GILMORE) – This resolution accepts a grant from the state department of finance and administration for benefit of the juvenile drug court program. The term of this grant is four years beginning July 1, 2004, and expiring June 30, 2008. The grant funds will be used for providing professional services and assessment of juvenile offenders. The juvenile court initiated the drug court in May 2002 and is seeking to increase their funding opportunities.

The amount of the grant is \$236,625 which shall be paid in four installments. The amount of \$37,500 will be paid in the first year and the amount of \$66,375 will be paid in each of the last three years of the grant. The Metropolitan Government is required to provide matching funds in a total amount of \$78,875, with \$12,500 being provided in the first year and \$20,000 being provided in each of the last three years. The matching funds are funded in this year’s operating budget.

RESOLUTION NO. RS2004-397 (DREAD & GILMORE) – This resolution accepts a grant from the state department of finance and administration to provide drug treatment and re-entry assistance for female offenders. This grant is for the benefit of the sheriff’s office. This grant is for a term of four years beginning July 1, 2004, and expiring June 30, 2008. Metro is required to provide matching funds, and the grant funds will be paid in the following amounts during the term of the grant:

	<u>Grant Amount</u>	<u>Metro Matching Amount</u>
Year 1	\$98,346.00	\$32,781.00
Year 2	\$98,793.00	\$32,931.00
Year 3	\$76,588.00	\$25,529.00
Year 4	\$81,857.00	\$27,286.00

This program is to address the problem of recidivism of women offenders who continue to re-enter the prison system. This program will be operated at 5113 Harding Place. Funds will be used to employ an assistance specialist and a re-entry specialist. The position of the re-entry specialist will be absorbed into the sheriff’s office operating budget in the third year of the program, and once the program is completed, the other position of assistance specialist will also be absorbed into the sheriff’s office budget.

RESOLUTION NO. RS2004-398 (GILMORE & DREAD) – This resolution accepts a grant from the National Insurance Crime Bureau for use and benefit of the Metro police department. The National Crime Bureau operates a program that provides temporary use or outright donation of vehicles and equipment to law enforcement agencies and for use in auto sting operations and investigation of auto insurance related crimes. The term of this grant is for two years beginning June 1, 2004, and extending until May 31, 2006. There are no matching funds required of Metro. This approves the form of the use agreement for the vehicles that are temporarily loaned to Metro, and the grant agreement form when vehicles or equipment are donated.

RESOLUTION NO. RS2004-399 (WHITMORE & GILMORE) – This resolution approves a grant in the amount of \$16,000 from the state department of state to the public library to purchase a computer and software. The grant funds will be used to purchase peripheral computer devices for library networks. There is a required Metro match of \$6,000 for this grant which will be funded from the library's operating budget.

RESOLUTION NO. RS2004-400 (GILMORE) – This resolution authorizes the mayor to submit an application to the U.S. department of justice for a law enforcement block grant to be used by various Metro agencies. The grant application is for federal funds totaling \$692,975. The grant, if awarded, is an annual grant used to reduce crime and improve public safety. The following agencies will receive funding under this grant if it is awarded: police, drug court, sheriff, public schools, district attorney, justice integration services, juvenile court, public defender and parks and recreation.

This is an annual program, however, it has been reduced dramatically. Last year the block grant was \$1,542,856. When awarded, the acceptance must be approved by resolution of the council.

RESOLUTION NO. RS2004-401 (NEIGHBORS & GILMORE) – This resolution authorizes the department of finance to accept a donation of \$150.00 from James Chelette for benefit of the caring for children program. Ordinance No. BL2003-57, previously adopted by the council, authorized the director of finance to accept such donations provided approval by the council by resolution. Funds must be used pursuant to guidelines in the ordinance as follows: donations are to be used for food clothing, baby supplies, Christmas gifts for families, Thanksgiving food boxes, school supplies, household supplies, transportation assistance, and other "items of a similar nature".

RESOLUTION NO. RS2004-402 (NEIGHBORS & GILMORE) – This resolution approves a contract for privatization of the information technologies division of general hospital. The hospital authority has decided that it is economically advantageous to contract with outside vendors for information technology services, which previously had been provided by the information technologies division of its own information technologies and telecommunications department. The hospital authority will contract with McKesson Information Solutions, LLC of Alpharetta, Georgia.

Section 4.12.095 of the Metropolitan Code requires that any contract which privatizes governmental services will not be effective until the contract has been approved by council by resolution with 21 affirmative votes. This provision is applied if more than two or more employees of the Metropolitan Government would lose employment or the contract has a value of more than \$100,000 annually. This contract for these services is for a term of five years and provides for three annual renewals, unless six months notice is given by either party not to renew. The initial amount of the contract is for \$189,174 per month or \$2,273,688 annually. The total amount for the five year period is \$11,368,440.

Information technology services provided to the hospital are directly related to health care management and is very sophisticated.

Eight employees will be offered employment by McKesson under the term of the contract. These employees will be offered employment at least as much as their current salary and are to receive all benefits of similar employees of McKesson who perform the same services.

RESOLUTION NO. RS2004-403 (ISABEL, GILMORE & NEIGHBORS) – This resolution approves an amendment to a grant agreement between the U.S. environmental protection agency and the board of health relative to the comprehensive air pollution program. This amendment increases the amount of funding by \$287,488 and will increase the total grant to \$438,927. Metro's match is also increased by \$183,393 which will require a total match of \$299,615. The original grant was for a term of two years, and the term of this grant remains the same.

RESOLUTION NO. RS2004-404 (GILMORE) – This resolution approves an amendment to a grant between the U.S. environmental protection agency and the board of health for development and implementation of an air monitoring network for particulate matter. This amendment extends the term of the grant for an additional year, providing for extension of this grant to September 30, 2005. In addition, the grant amount is increased by \$261,420, providing a total amount of the grant to \$368,473. No local match is required by this grant.

RESOLUTION NO. RS2004-405 (GILMORE) – This resolution authorizes the director of finance to carry forward and appropriate fiscal year 2005 and unexpended and unencumbering the \$300,000 appropriated in the 2003 operating budget for the Metro disparity study. The operating budget adopted in fiscal year 2005 authorized the director of finance to reappropriate these funds subject to approval by the council by resolution.

RESOLUTION NO. RS2004-406 (GILMORE) – This resolution approves a tree bank schedule promulgated by the urban forester. The zoning text provides for establishment of the tree bank when money is contributed to a tree bank when due to soil type, topography, or unusual nature of the site, the growth of trees could not be accomplished under the tree ordinance. Sites located in the CC, MUI or CF districts, or in any other district where there is not adequate required yard space to accommodate the total number of required replacement trees can utilize the tree bank provision. Funds received in the tree bank are utilized to purchase and plant trees on public land. The Metro Code provides for tree density units which is based upon area and caliper of trees. The fee schedule begins at \$350.00 for one unit and extends to \$250.00 per tree density unit when more than 400 units of tree density are calculated.

RESOLUTION NO. RS2004-407 (GILMORE) – This resolution modifies the existing master list of architectural and engineering firms. The Metro Code of Laws provides that all contracts for professional services or architects and engineers must be with firms listed on the master list. This resolution adds the engineering firm of T. K. Engineering Company, Inc., of Goodlettsville, Tennessee to the master list.

RESOLUTION NO. RS2004-408 (GILMORE) – This resolution authorizes the department of law to compromise and settle the claim of Kennetha Boyd against the Metropolitan Government in the amount of \$16,000, and directs that this amount be paid from the self-insured liability fund. This claim is for personal injury to Ms. Boyd who was injured when a Metro Government garbage truck backed into her vehicle , causing damages to her automobile and personal injury to Ms. Boyd. This accident occurred at 2633 Buena Vista Road while on an assigned route the garbage truck backed into Ms. Boyd, totaling her vehicle and knocking it into a second vehicle, which also was knocked into (continued on next page)

RESOLUTION NO. RS2004-408 (continued)

a third vehicle. According to the Metro police report, the backing alarm on the garbage truck was not working properly. The operator of our vehicle received an oral reprimand as a result of this accident. The garbage truck backing alarm has subsequently been repaired. Property damage claims for all three vehicles have been settled for \$5,131.81. This claim is for personal injury to Ms. Boyd, who received neck, back and foot injuries. The \$16,000 claim includes the cost of medical expenses of \$7,220.15 and \$8,779,.85 for pain and suffering.

RESOLUTION NO. RS2004-409 (GILMORE) – This resolution authorizes the department of law to compromise and settle the claim of Reba Carter against the Metropolitan Government in the amount of \$25,888.56, and directs that this amount be paid from the self-insured liability fund. Ms. Carter was injured in an automobile accident which occurred on Moormans Arm Road and Crouch Drive when Ms. Carter's vehicle struck another vehicle. Ms. Carter was traveling on Moormans Arm Road where it intersects with Crouch Drive a stop sign was missing. Apparently, the stop sign was knocked down on December 21, 2003, when an accident occurred. The Metro police officer failed to notify Metro dispatch or the public works department. This accident occurred on December 24, 2003. This claim includes medical expenses of \$13,666.68, as Ms. Carter suffered a concussion, a fractured left clavicle, a left rib fracture, and a punctured left lung. She also had lost wages of \$1,238.80 and damages to her automobile in the amount of \$2,000. The claim includes \$22,594.52 for pain and suffering. A portion of her medical costs in the amount of \$11,611.44 was paid by TennCare.

The police and public works departments are now developing a new procedure to allow notification to public works about traffic signals that are missing, damaged or malfunctioning. Instead of relying on the current paper system, they are working on a more sophisticated notification system for such notification.

RESOLUTION NO. RS2004-410 (GILMORE) – This resolution authorizes the department of law to accept \$6,526.58 in partial settlement of the Metropolitan Government's claim against L & G Construction Company. L & G Construction, working as a sub-contractor for Sessions Paving Company, broke a 36" water main on 8th Avenue South while installing sidewalks. This settlement is for 75% of our claim. This water main was only 9" below surface, however, the Metro Code requires that all water mains be 30" below finished grade of the surface. This line was installed in the late 1800s or early 1900s and pre-dated the Metro Code requirements. Metro is still pursuing the remaining 25% of our claim from Sessions Paving, as under their contract they may have some responsibility for investigating such line locations.

RESOLUTION NO. RS2004-411 (GILMORE) – This resolution authorizes the department of law to accept \$11,077.45 in settlement of the Metropolitan Government's claim against the Metro Transit Authority (MTA) for our property damage claim as a result of an accident. A health department vehicle was damaged when an MTA bus rear-ended our Metro vehicle while stopped in traffic on Nolensville Road near Peachtree Street. Our vehicle was a total loss and this payment is for the vehicle based on its value. Our employee suffered serious injury. Metro Government will be subrogated for the medical expenses and lost wages. The employee is seeking personal injury expenses from MTA.

RESOLUTION NO. RS2004-412 (ALEXANDER & WALLACE) – This resolution authorizes Clopay Plastics, Inc., to construct fiber optic cable over the public right-of-way along Harding Industrial Drive, northwest of Harding Place. Clopay will be responsible for all construction and maintenance costs and has agreed to indemnify and hold the Metropolitan Government harmless for any claims resulting from the installation of the cable. Clopay is required to submit a \$300,000 certificate of public liability insurance naming the Metropolitan Government as additional insured. This resolution has been approved by the planning commission.

p:resol

- BILLS ON SECOND READING -

ORDINANCE NO. BL2004-183 (SHULMAN & HAUSSER) – This ordinance amends the Metropolitan Code of Laws to require the board of parks and recreation to designate an area of Elmington Park as a “dog friendly zone.” The Code currently provides that a dog may only be brought into a park if the dog is on a leash not exceeding three feet in length. This ordinance would allow dogs to run freely in this designated area without being on a leash.

ORDINANCE NO. BL2004-235 (SHULMAN & WALLACE) – This ordinance amends the Metropolitan Code of Laws to require persons engaged in excavation, sidewalk construction, or paving work in the Metro public right-of-way to post a sign indicating the expected commencement and completion date for the project. The sign is to be of an adequate size to be visible to the motoring public.

ORDINANCE NO. BL2004-238 (MCCLENDON, GREER & OTHERS) – This ordinance amends the Metropolitan Code of Laws to set criteria regarding the types of permissible materials that may be used in the construction of fences. The Code currently provides that fences are to be constructed in accordance with the building code. The Code designates the type of fences that are prohibited, but does not include the type of materials that may be used in the construction of fences. Fences that are prohibited by the Code include electric fences, the use of barbed wire below six feet on a fence, and fences containing barbs or sharp projections on top of the fence if the fence is located within five feet of the property line.

This ordinance provides that fences may only be constructed using the following materials:

1. Woven wire.
2. Wood, vinyl, steel, or aluminum slats of no more than 1” by 6” in width hung vertically, horizontally, or diagonally between steel, wood, or vinyl posts no further than ten feet apart.
3. Masonry consisting of brick, concrete block, split-face block, or stones and mortar.
4. New plastic or other synthetic material treated in a manner to maintain the fence in good structural condition and with an appearance that is aesthetically compatible with the type of fence it represents.
5. Decorative-type split rail or dry-stack stone may be used for decorative fences.

The ordinance further provides that metal fences must be constructed of new materials manufactured and/or treated in a manner to prevent rust or corrosion. Wood fences must be constructed of new materials and painted, stained or preserved in a manner to maintain the fence in good structural condition.

There will be an amendment proposed to permit used materials, to require maintenance of fences, and to exempt agriculturally zoned properties from the provisions.

SUBSTITUTE ORDINANCE NO. BL2004-245 (BRILEY & GILMORE) – This substitute ordinance amends the Metropolitan Code of Laws to include public notification requirements for Metro boards and commissions. This ordinance would require the department of information systems to maintain a website calendar listing the date, time, location, and agenda of all meetings of Metro boards and commissions. This calendar is to be updated on a weekly basis and is to be accessible from the (continued on next page)

SUBSTITUTE ORDINANCE NO. BL2004-245 (continued)

Nashville.gov website. The ordinance requires each board and commission to submit a list of all meeting dates, times, and agendas to the department of information systems. The information is to be posted on the website not later than 10 days prior to the scheduled meeting date for a board or commission, and not later than 5 days prior to the meeting of a subcommittee.

The ordinance also requires the Metropolitan Government to make available to the newspapers each Friday a list of all board and commission meeting times, locations, and agendas for the upcoming week. There is an emergency exception from this notice requirement that would allow a board or commission to consider an item not included in the notice to the press. There is also an exception from the notice requirement that would allow the benefit board to add an individual to the agenda so long as the subject matter of the addition only concerns that particular individual to be added.

In addition, the ordinance provides that any member of the public, upon request, shall be entitled to receive written notice by mail of the meeting time, date, location, and agenda of any Metro board or commission. Failure to receive such written notice shall not be considered a lack of adequate notice as long as all other means of notification required by law have been followed. The provisions of this ordinance are not to take effect until January 1, 2005.

ORDINANCE NO. BL2004-246 (WALLACE, GILMORE & OTHERS) – This ordinance authorizes the acquisition of property by negotiation or condemnation for the expansion of Hume-Fogg Academic High School located at 8th Avenue North and Broadway. The property to be acquired is on 8th Avenue, directly behind Hume-Fogg. A public hearing is being held by the planning and education committees at a joint meeting to comply with the Metro Code requirement that such acquisition for school sites have a public hearing prior to adoption on second reading.

This acquisition has been approved by the board of public education and the planning commission.

ORDINANCE NO. BL2004-253 (WALLACE) – This ordinance amends the Metropolitan Code of Laws to require that all individuals and firms engaged in tree care and removal activities, whether on private or public property, obtain a permit from the urban forester. The Code currently provides that all individuals and firms conducting tree care and removal as a business are required to have a permit to engage in such tree care and removal activities. The permit is to be issued by the urban forester upon proof by the applicant that he or she has successfully completed a test of tree knowledge given by the International Society of Arboriculture, and proof that he or she or his or her firm has a minimum of three hundred thousand dollars of liability insurance. The permit fee is twenty-five dollars per year.

The Code currently includes an exception from the above permit requirements for performing work on private trees unless the tree is a hazard tree. The Code states that the intent of the permit provisions is that “the provisions be applicable only to public trees and for the protection of public utility distribution lines.” This ordinance would remove the exception for private tree work.

ORDINANCE NO. BL2004-288 (LORING, WHITMORE & OTHERS) – This zoning text change creates a new land use “Public Facility”. Such use is defined by this ordinance as a facility or structure owned by metropolitan government which provides services or activities including (continued on next page)

ORDINANCE NO. BL2004-288 (continued)

administrative offices, health care, indoor storage of non-flammable items, training and other such activities. Public facilities will be permitted in most commercial and industrial zones and will be permitted with conditions in residential and mixed-use limited and neighborhood zones. This will essentially allow buildings originally constructed in residential areas to be used as other facilities by the board of public education, such as storage sites.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-294 (GREER) – This ordinance abandons an alley from the east margin of 8th Avenue South to 140 feet east of 8th Avenue South, between Lynwood and Alloway Streets. This closure has been requested by Kevin King on behalf of the 1512 Company, the adjacent property owners. Metro will retain all easements. This ordinance has been approved by the planning commission, but not yet considered by the traffic and parking commission.

ORDINANCE NO. BL2004-296 (ISABEL) – This ordinance amends the Metropolitan Code to provide for the authority to sell naming rights to buildings owned by the Metropolitan Government. Presently, general buildings owned by the Metropolitan Government cannot be named except by ordinance approved by the Metro Council. Structures controlled by the board of public education, library board, and the board of parks and recreation require their approval for naming properties.

This ordinance, pursuant to enactment of an ordinance approved by the Metro Council, removes that authority from the council and allows the director of public property administration to sell naming rights to buildings and general structures of the Metropolitan Government, but would require that an ordinance be adopted authorizing the sale. It further provides that the director of public property administration may adopt rules and regulations to administer the selling of naming rights.

The council office believes that although there may be some revenue impact, naming rights for public buildings should be restricted to the council and not be used as a revenue device. Traditionally, public buildings have been named for persons who have contributed great community service.

ORDINANCE NO. BL2004-297 (NEIGHBORS & GILMORE) – This ordinance approves amendment number two to the memorandum of agreement between the Davidson County community service agency (DCCSA) and the Metropolitan Government for funding of the administration of the caring for children program. The DCCSA is a governmental agency created by state law that is funded through the state department of children services. The DCCSA currently has a grant agreement with the state department of children services that expires June 30, 2003, however, it is expected to be extended through June 30, 2004. The purpose of this amendment is to more specifically identify the children and families services portion of the grant for the stated purpose of increasing the maximum funds provided by the DCCSA for needs assessment, and equally decrease the maximum funds provided by the DCCSA for adoption services. Currently, the grant provides \$5,393,654 for the caring for children program, which will be reallocated to include specific allocations, the largest of which is for case management in the amount of \$3,343,083. Adoption services funding will be set at \$40,400, and needs assessment will be set at \$162,788. The other portion of this grant is allocated to reunification services of children to their parents, independent living services, and emergency residential services.

The finance department provides basic administration services under this grant.

ORDINANCE NO. BL2004-298 (NEIGHBORS, WHITSON & GOTTO) – This ordinance would require that effective July 1, 2005, and every three years thereafter, that the director of finance review all permits fees and other fees charged by the Metropolitan Government and submit a report to the council within ninety days. This report to the council would state the current amount of the fee generated annually; the purpose of the fee; the cost to the department or agency providing the service; a comparison of the fee to surrounding counties of a similar size and population to Metro; and any recommendations for increases or adjustments to the fee.

This report would provide information to the council to address and assess fee increases to generate additional revenue. Council must remember that such fee charges must bear a relationship to the services actually provided or could be deemed to be a tax and, therefore, could not be assessed. This proposes to provide for a program for reviewing of all fees and charges by the council to adjust such fees and charges where appropriate.

ORDINANCE NO. BL2004-299 (DREAD & GILMORE) – This ordinance authorizes the Metro police department to accept a donation from the Community Foundation of Middle Tennessee of equipment for use in law enforcement and investigation purposes. This equipment is primarily cameras, recorders, wireless transmitting and receiving systems, video and audio recorders, and sophisticated digital cameras.

ORDINANCE NO. BL2004-300 (GILMORE) – This ordinance amends Ordinance No. BL2004-262 recently adopted by the council increasing the fees for the general sessions court traffic safety school and approving a new fee schedule for certain zoning-related applications for the planning commission. The original ordinance required that the fee increases were to be effective January 1, 2005. This ordinance amends BL2004-262 to allow that these fee increases take effect immediately upon adoption of this ordinance. The budget adopted in June 2004 anticipated these fees would be in effect the entire year. The council could not amend the original ordinance to allow the effective date to be July 1, 2004, as the effective date was part of the caption. Captions cannot be amended once adopted on first reading, except in zone change ordinances.

ORDINANCE NO. BL2004-303 (WILHOITE) – This ordinance provides that the Metropolitan department of public works shall be responsible for signage on private streets and roads that abut the public right-of-way and that are in close proximity to public streets.

The council office believes that this ordinance is invalid and should not be adopted, as it provides for expenditure of funds on private property, which violates the constitutional prohibition of "lending of credit". Private streets are permitted under Tennessee law and the Metro Code, however, maintenance of such streets, which would include signage, is the responsibility of the owner. Typically, once a subdivision or development is constructed that has private streets, responsibility is transferred to the homeowners association. Today, most private streets are in a planned unit development. Metro requires that prior to approval of a planned unit development, that a mechanism must be in place to assign maintenance of all streets and roads that are private.

ORDINANCE NO. BL2004-304 (NEIGHBORS & GILMORE) – This ordinance approves the transfer of the operation of the J.B. Knowles Home for the Aged to the hospital authority, and the lease of the home, the property of which is located at 1010 Camilla Caldwell Lane. The Metro Charter permits transfer of operation of the J.B. Knowles Home (commonly referred to as the Knowles Home) to the board of hospitals by ordinance. The council in 1999 created, under state law, the hospital authority for Nashville and Davidson County and transferred property of the board of hospitals to the new hospital authority.

All employees of the Knowles Home are to retain the same civil service status that they currently enjoy, and any positions that are proposed to be non-civil service or any decision to change a position from civil service to non-civil service cannot take place unless approved by ordinance of the council. Such employees being transferred would receive the same annual salary and any future changes in salary shall be in accordance with the pay plan developed and adopted by the hospital authority. The transferred employee would receive the same pension and health benefits they currently receive.

The lease amount is for \$1.00 per year beginning July 1, 2004, and running for a term of five years. The ordinance provides the lease agreement may be amended by resolution of the council adopted by 21 votes.

p:second

- BILLS ON THIRD READING -

ORDINANCE NO. BL2004-225 (SUMMERS) – This ordinance, as amended, amends the Metropolitan Code of Laws to prohibit the codes department from issuing a permit until all necessary easements held by the Metropolitan Government have been abandoned. This would apply whenever a developer is seeking to build on land encumbered by an easement held by the Metropolitan Government, and there is no future governmental need for the easement. Easements held by the Metropolitan Government can only be abandoned by ordinance enacted by the Metropolitan Council.

ORDINANCE NO. BL2004-233 (MURRAY) – This zoning text change amends the zoning text to permit religious institutions (churches) as a permitted use in industrial districts (IWD, IR, and IG). Presently such are permitted in all commercial and office districts and are permitted as special exceptions in residential districts.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-244 (WALLACE) – This zoning text change would require that all persons engaged in commercial tree trimming service to obtain a tree removal permit from the zoning administrator and would require applicants for a tree removal permit to submit a plan for disposal of the tree. This ordinance is essentially a companion bill to BL2004-253, which would require that all individuals and firms engaged in tree care and removal activities, whether on private or public property, obtain a permit from the urban forester. The Metro code currently provides for an exemption from the permitting requirements for trees on private property.

This zoning text amendment does not really change the current zoning code, but simply clarifies that if BL2004-253 is enacted, then all persons, including commercial tree trimmers, would have to obtain a tree removal permit for each tree. The ordinance would also require that all applicants for a tree removal permit provide a plan for disposal of the tree. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-259 (MCCLENDON, HAUSSER & JAMESON) – This ordinance amends the Metro Code relative to graffiti to make it unlawful to sell graffiti implements to minors. This ordinance provides that no person or firm shall sell or cause to be sold to any person under the age of eighteen graffiti implements. The code defines “graffiti implements” as aerosol paint containers, felt tip markers (greater than 1/8 inch), and graffiti sticks. The “graffiti stick” is a device that contains paint, chalk, wax, or similar substance capable of being applied by pressure leaving a mark of at least 1/8 inch in width, and which is not water soluble. Presently, it is unlawful to have graffiti implements in your possession in any public facility, recreation facility or public building, and within 100 feet of any underpass, bridge abutment, or similar type of infrastructure, unless authorized by the Metropolitan Government.

ORDINANCE NO. BL2004-289 (DREAD, FOSTER & OTHERS) – This zoning text change amends the sidewalk provisions to grant relief to developers of property from having to install sidewalks in certain circumstances. The zoning code currently requires a developer of a multifamily or nonresidential project to install sidewalks along collector and arterial streets in front of the property. If sidewalks already exist, they must be brought into ADA compliance. The zoning code does not
(continued on next page)

ORDINANCE NO. BL2004-289 (continued)

require sidewalks if the value of the project is less than 25% of the value of the overall property or if the value of multiple projects over a five-year period is less than 50% of the value. In addition to this exemption stated in the Code, developers can seek a variance from the board of zoning appeals for sidewalk relief.

This ordinance adds a couple of additional exemptions. The first additional exemption is that sidewalks would not be required if the total building square footage of any one expansion is less than 25%, or the total square footage of multiple expansions over a five year period is less than 50%, of the value of the property. The second exemption would be for property located outside the urban services district and the area surrounding the property within a one mile radius is developed at an average density of three or less units per acre. Thus, developers would be excused from constructing sidewalks for developments located in predominantly rural and low-density areas.

This ordinance also replaces the criteria for determining the locations in which sidewalks must be constructed. The ordinance provides that when sidewalk relief is granted pursuant to the sidewalk relief provisions of the subdivision regulations, any revision to the final plat may reflect the relief granted and shall be signed by the planning director, and any performance bond for sidewalk construction shall be released. The planning staff has raised an issue as to whether this provision violates Tennessee law since the planning commission has the sole authority under state law regarding subdivision regulations. The ordinance also provides exceptions from the sidewalk provisions if certain physical conditions exist. These exceptions are similar to the relief provisions in the subdivision regulations, except that the exceptions in this ordinance would be mandatory, whereas they are discretionary in the subdivision regulations. First, sidewalk relief must be granted when drainage ditches are present and sidewalks cannot be constructed without installing stormwater facilities. Second, sidewalk relief must be granted when there are cross-slopes of greater than 9% and the department of public works certifies that construction of sidewalks on both sides of the streets create a hazardous condition or be impracticable. Third, no sidewalks would be required when the surrounding area has sidewalks only on the opposite side of the road from the development and no sidewalks exist on the development side. Finally, any development that does not extend for the entire block of the street would not be required to install sidewalks unless existing sidewalks would fill in the block.

This ordinance also includes a payment in lieu of construction if the sidewalk construction for the area is in the capital improvements budget. Once funds are paid into the "sidewalk bank", the ordinance provides that the funds must be expended within 24 months of receipt on sidewalk construction within the same school district as the development. The ordinance provides that the cost of "ancillary roadway improvements", such as stormwater facilities, would not be included as part of the calculation of the amount to be contributed. It is important to note that stormwater facilities are often a large part of the cost of sidewalk installation.

Finally, this ordinance provides that sidewalks shall not be required on cul-de-sac or dead-end turn around streets. The planning staff has also raised the issue of whether this provision violates Tennessee law regarding the authority of the planning commission over subdivision regulations, as stated above.

This ordinance has been disapproved by the planning commission.

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Metropolitan Council Office

DATE: **Tuesday, July 20, 2004**

RE: **Supplemental Analysis Report:
Mayor's 2004-05 Capital Spending Plan**

RESOLUTION NOS. RS2004-328, RS2004-329 & RS2004-330 AND RESOLUTION NOS. RS2004-361 THRU RS2004-372 (GILMORE) – These fifteen resolutions provide for the mayor's 2004-2005 spending plan for various capital projects, construction of new facilities, renovation and repair of existing facilities, and acquisition of equipment. This mayor has made it a practice to bring all capital projects for a year in one package to be considered by the Council. Previous administrations typically brought capital projects to the council on an as-needed basis, rather than at one time annually. During this mayor's prior term, the capital spending plan was typically presented to the Council in the late fall. This is the first time that this mayor has presented his capital spending plan at the same time that the capital improvements budget and operating budget are being considered. The council previously deferred these resolutions until the second meeting in July to enable the council to focus on the capital improvements budget and the operating budget during the month of June.

Resolution No. RS2004-330 (GILMORE) – This resolution determines to issue \$109,741,299 in GSD general obligation bonds and \$32,274,762 in USD general obligation bonds to provide funding for various projects contained in the mayor's capital spending plan. This is the first step in the process toward the ultimate sale of the bonds by public bid to provide the necessary financing for the projects. The general obligation bonds to be issued provide funding for some 11 GSD projects, and the USD bonds will provide funding for 8 projects. This debt will be paid from the debt service of the GSD and the USD. The maximum interest rate of the bonds is not to exceed 7% per annum.

The projects to be financed with the GSD bonds include:

- (1) ancillary building roof replacement at Bordeaux Hospital;
- (2) improvements for the administration building at Bordeaux Hospital, including sprinklers, HVAC system and upgraded fire alarm systems;
- (3) jail renovation and expansion;
- (4) major maintenance of several facilities;
- (5) implementation of the Head Start Study recommendations including building replacement and renovation;
- (6) projects for the public school system, including various construction projects, replacement of school buses and other vehicles, ADA compliance, renovation and replacement of schools and technology improvements;

- (7) transit improvements, including intelligent transportation services, capital funding, purchase of buses and para-transit vehicles, inter-moded transfer facilities;
- (8) implementation of the Master Plan for Parks and Greenways;
- (9) deferred and on-going maintenance of park buildings and facilities;
- (10) Dasher Board replacement at the Gaylord Arena; and
- (11) safety improvements for the rigging at the Gaylord Arena.

The projects to be funded with the USD bonds include:

- (1) renovation and replacement of fire halls in accordance with the Fire Department assessment recommendations;
- (2) Arts Center development in the Gulch Redevelopment Area;
- (3) implementation of the facility study recommendations for the Police Department;
- (4) ADA compliance for traffic signals;
- (5) state route paving program, including sidewalks and ramps;
- (6) maintenance repair and rehabilitation, replacements and improvements to bridges;
- (7) roadway maintenance; and
- (8) construction and improvements of sidewalks.

A detailed list of all capital projects to be funded by this bond issue, including the estimated cost for each project, is attached to this analysis. This resolution should be adopted prior to the adoption of Resolution No. RS2004-328.

Resolution No. RS2004-328 (GILMORE) – This resolution authorizes the issuance of bond anticipation notes in the amount of \$109,741,299 for the GSD bonds and \$32,274,762 for the USD bonds, which will allow Metro to issue short-term bonds prior to the issuance of the general obligation bonds. This is a frequently used temporary financing mechanism by the Metropolitan Government to make the necessary funding for the projects available while awaiting the appropriate time to issue the long-term bonds, which generally have a term of 20 years. The notes will be issued in increments of \$5,000 and will bear interest at a maximum rate of 7% per annum.

Resolution No. RS2004-329 (GILMORE) – This resolution authorizes the issuance of capital outlay notes in the amount of \$40,279,700 to provide funding for various capital projects. Capital outlay notes are a short-term debt instrument authorized by state law. Capital outlay notes are generally issued for initial terms of three years and can be renewed for two additional terms of three years each. There is a requirement that one-ninth of the original principal be retired each year. There is also a provision that enables Metro to reimburse itself from the proceeds of the capital outlay notes for expenditures such as architect and engineer fees incurred prior to the issuance of the notes. The principal and interest on the notes will be paid from the debt service of the GSD.

The projects to be funded by these capital outlay notes are as follows:

1. \$1,952,700 for the circuit court clerk traffic violations bureau integrated case management system.
2. \$1,900,000 for convention center repairs. Generally, the first source of funding for improvements to the convention center are from the proceeds of the hotel/motel tax that provides for payment of debt of the convention center.
3. \$500,000 for installation and enhancement of web-based electronic budget projects for the finance department.

4. \$8,625,000 for upgrades to the computer systems of the Metropolitan Government.
5. \$500,000 to begin the implementation of the Warehouse Needs Study recommendations for the finance department.
6. \$1,200,000 for implementation of the point of sale system study managed by the office of the treasurer.
7. \$1,000,000 for internet-based electronic procurement systems that offer procurement processes, contract, and grant management systems.
8. \$140,000 for General Hospital technology upgrades.
9. \$2,665,000 for the General Hospital integrated information system.
10. \$3,000,000 for the department of general services to implement the shared services concept within the operation of the Metropolitan Government.
11. \$150,000 to acquire and manage a fleet information system by the department of general services.
12. \$150,000 for the department of human resources to store, transmit, and file employee performance management files and forms.
13. \$1,500,000 for the purchase and installation of tax accounting system hardware and software for the ITS department.
14. \$1,500,000 for the purchase and installation of PBX telephone system hardware and software for the ITS department.
15. \$3,300,000 to move applications from the IBM mainframe to other processor platforms for the ITS department.
16. \$1,500,000 for hardware and software necessary to scan and save paper records as digital images for the ITS department.
17. \$565,400 to acquire software tools and equipment and to make facility upgrades for the ITS department.
18. \$650,200 for equipment and software tools to accommodate growth of the data center for the ITS department.
19. \$400,000 for upgrades to the ITS computer room.
20. \$308,000 for security software and network equipment for the ITS department.
21. \$7,173,400 to purchase buses and other facility improvements for the Metro transit authority.
22. \$1,100,000 to address ADA issues, roofing, paving, and other repair items at the fairgrounds.
23. \$500,000 for major maintenance projects at the fairgrounds.

Resolution Nos. RS2004-361 Thru RS2004-372 (GILMORE) – These twelve resolutions appropriate funds from the general fund reserve fund (4% fund) to various departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The required information sheets detailing these expenditures are attached to this analysis.

The total amount of these twelve resolutions is \$36,452,900. The balance in the general fund reserve fund as of June 9, 2004, was \$37,452,900. Although funds are available, in the past a fund balance in excess of \$1 million has been a minimum balance. The resolutions do provide that “(t)he Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the fund.” Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to this analysis.

Resolution No. RS2004-361 appropriates \$120,000 from the general fund reserve fund to purchase a security locking system for the detention center, and for building repairs and renovations to the juvenile justice center for the Davidson County juvenile court.

Resolution No. RS2004-362 appropriates \$350,000 from the general fund reserve fund to purchase upgrade kits for electronic voting machines for the Davidson County election commission.

Resolution No. RS2004-363 appropriates \$695,800 from the general fund reserve fund to fund building reconfiguration for the new city hall, and for building repairs and improvements to Lindsley Hall for the finance department.

Resolution No. RS2004-364 appropriates \$20,397,900 from the general fund reserve fund to fund major maintenance for facilities and grounds of various general services buildings, and to purchase motor vehicles for the general services department (\$900,000 for major maintenance and \$19,497,900 for motor vehicles).

Resolution No. RS2004-365 appropriates \$3,700,000 from the general fund reserve fund to fund building and facility improvements per Tri-Data Study recommendations for the fire department.

Resolution No. RS2004-366 appropriates \$203,200 from the general fund reserve fund to purchase replacement chairs in the dispatch center; reallocation of workstations and office space; long-term recorder expansion; MOSCAD interface to CAD; and headsets for the emergency communications center.

Resolution No. RS2004-367 appropriates \$38,700 from the general fund reserve fund to purchase human resources/health records information imaging equipment; imaging and data licenses; and for building reconfigurations for transfer of pension services to human resources for the human resources department.

Resolution No. RS2004-368 appropriates \$3,376,000 from the general fund reserve fund to purchase equipment, hardware and software for implementation of social services audit recommendations; computer equipment for the tech revolving fund; and computer remote devices to be used by the codes administration for the information technology services department.

Resolution No. RS2004-369 appropriates \$2,150,000 from the general fund reserve fund to fund building improvements and for building repairs and renovations to the MAC-head start facilities for the Metro action commission.

Resolution No. RS2004-370 appropriates \$660,000 from the general fund reserve fund to purchase auditorium roof maintenance; A/C and HVAC repairs; emergency generator; and dome air filters for the municipal auditorium.

Resolution No. RS2004-371 appropriates \$4,611,300 from the general fund reserve fund to purchase books, magazines and information materials and services for the main library and branches; equipment and installation for branch automation; data/video projection system and digital recording system for main library auditorium and conference center; and upgrades to existing integrated system countywide/system wide and enhancements for the public library.

Resolution No. RS2004-372 appropriates \$150,000 from the general fund reserve fund to fund building improvements for life/safety issues, and salt bin foundation for the public works department.